

### REMARKS

Responsive to the "Notice of Non-Compliant Amendment" (copy attached) Applicant submits herein the Preliminary Amendment filed with the filing of the application and resubmitted on November 02, 2004. If for any reason this Amendment remain non-compliant, the Examiner is requested to immediately call the undersigned.

Applicant has added a Related Applications section to clearly claim the priority rights in the parent application (USSN 10/132,013) and the indicated filed Japanese applications. Certified copies of these Japanese applications were filed in the parent application.

Applicant has deleted Claims 5-9, 11 and 12. The subject matter of these claims is covered in Applicant's parent application. The remaining claims, 1-4 and 10 remain in this continuing application. Applicant also encloses copies of the Notice of References Cited (PTO-892) and Information Disclosure Citations (PTO A820) of record in the parent application.

The Office Action of October 06, 2004 in the parent application rejected the claims now presented herein (Claims 1-4 and 10) under 35 USC 102(a) in view of Reference Q, ASICS Spring 2002 Footwear Catalog, page 1, indicated as published on May 16, 2001. This cited ASICS Catalog was published by ASICS TIGER Corporation. ASICS Tiger Corporation, for which the undersigned is Vice President and General Counsel, is a wholly owned subsidiary of ASICS Corporation, the corporation to which this application has been assigned (see Reel/Frame 012840/0943). Thus, the cited reference discloses subject matter derived, originated and obtained from the applicant rather than invented by another. Thus, the cited reference can not be used.

Applicant respectfully requests that this application pass to issuance.

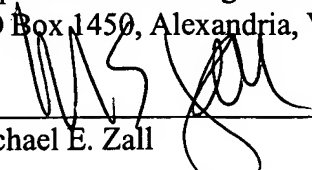
All statements made herein made of my own knowledge are true and all statements made on information and belief are believed to be true; and further the statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated: December 9, 2004

Respectfully Submitted,  
Michael E. Zall

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Vice President and  
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I hereby certify that this correspondence is being mailed by First Class Mail, postage prepaid, to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on December 9, 2004.

  
\_\_\_\_\_  
Michael E. Zall



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TRADEMARK

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,257	02/18/2004	Tsuyoshi Nishiwaki	3.0-029C	2220

7590

11/17/2004

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Suffern, NY 10901

EXAMINER

STASHICK, ANTHONY D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 11/17/2004

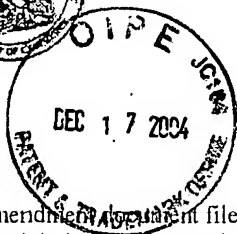
Please find below and/or attached an Office communication concerning this application or proceeding.

10780257



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## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 11-2-04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required. **Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.** 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☒ C. Other: Begin each section of an amendment document on a separate page
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other: \_\_\_\_\_
- ☐ 3. Amendments to the drawings: \_\_\_\_\_
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: Begin each section of an amendment document on a separate page.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is **not extendable**.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Johnson  
Legal Instruments Examiner (LIE)

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Telephone No.